

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

| | | |
|-------------------------------|---|-----------|
| UNITED STATES OF AMERICA, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | 8:08CR151 |
| |) | |
| OSCAR COLMENARES-GONZALEZ and |) | ORDER |
| COLMENARES RODRIGUEZ INC., |) | |
| |) | |
| Defendants. |) | |

This matter is before the court on the defendant's motion to continue trial (Doc. 87), for the reasons that the defendant recently retained substitute counsel and co-counsel has been ill. Trial will be continued to December 9, 2008. The defendant will be required to file an affidavit or declaration regarding speedy trial in compliance with the Local Rules of Practice.

IT IS ORDERED that the motion is granted, as follows:

1. The jury trial now set for October 7, 2008, is continued to **Tuesday, December 9, 2008.**

2. In accordance with [18 U.S.C. § 3161](#)(h)(8)(A), the court finds that the ends of justice will be served by granting this continuance and outweigh the interests of the public and the defendant in a speedy trial. Any additional time arising as a result of the granting of this motion, that is, the time between **October 7, 2008 and December 9, 2008**, shall be deemed excludable time in any computation of time under the requirement of the Speedy Trial Act due to co-counsel's illness and the recent appearance of substitute counsel. Counsel require additional time to adequately prepare the case, taking into consideration due diligence of counsel and the novelty and complexity of this case. The failure to grant additional time might result in a miscarriage of justice. 18 U.S.C. § 3161(h)(8)(A) & (B)(iv).

3. Defendant shall file an affidavit or declaration regarding speedy trial, as required by [NECrimR 12.1 and/or 12.3](#), no later than **October 1, 2008.**

DATED September 17, 2008.

BY THE COURT:

s/ F.A. Gossett
United States Magistrate Judge